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5 UNITED STATES DISTRICT COURT  
6 SOUTHERN DISTRICT OF OHIO  
7 WESTERN DIVISION  
8 - - -

9 HENRY WILLIAMS, :  
10 :  
11 Plaintiff, :  
12 :  
13 vs. : CASE NO. C-1-02-533  
14 :  
15 MILTON CAN COMPANY, INC. and :  
16 BWAY MANUFACTURING, :  
17 :  
18 Defendants. :  
19 :  
20 - - -

21 DEPOSITION

22 of ALLEN ARTIS, taken before me, Kathy J. Nicholson,  
23 Registered Professional Reporter and Notary Public in and  
24 for the State of Ohio at large, as on cross-examination,  
25 at the Hampton Inn, 858 Eastgate North Drive, in the City  
of Batavia, County of Clermont, and State of Ohio, on  
Tuesday, the 28th day of October, 2003, beginning at 1:49  
o'clock, p.m.  
- - -

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EXHIBIT

tabbies

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1 APPEARANCES:

2 On behalf of the Plaintiff:

3 WILL ALLEN, ESQ.  
 4 CASPER & CASPER  
 5 One N. Main Street  
 P.O. Box 510  
 Middletown, OH 45042

6 On behalf of the Defendant:

7 DAVID BLACK, ESQ.  
 8 DINSMORE & SHOHL  
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 255 East Fifth Street  
 9 Cincinnati, OH 45202

10 ALSO PRESENT: JOHN MCMAHAN, HENRY WILLIAMS

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25

1 Q. Tell me about those instances.

2 A. As far, okay, in the department where we worked  
3 at.

4 Q. Which department was that?

5 A. That would be salvage at that time, salvage  
6 area.

7 Q. You worked in salvage?

8 A. Yeah.

9 Q. At the time of Jake's injury?

10 A. At the time of Jake's injury, I worked in  
11 salvage, but that was inventory, that day was inventory  
12 day.

13 Q. Okay.

14 A. So we were all doing inventory.

15 Q. Okay. Tell me about the prior instances of  
16 contact that you remember before Jake's injury?

17 A. Just a few people that got bumped including,  
18 well, I had a close call, but I didn't get hit, you know,  
19 we didn't get hit, but a few people got bumped.

20 Q. When did you have a close call?

21 A. Gosh, I can't remember that day when that  
22 happened. It was about maybe a week or two before Jake  
23 got hit.

24 Q. Who was driving that almost struck you?

25 A. Bob.

1 Q. Francia?

2 A. Yeah.

3 Q. Did you report that to anyone?

4 A. Well, kind of he reported it, because I kind of  
5 got into it with him, you know. I didn't report it.

6 Q. Okay. Before that incident, did you have any  
7 problems with Bob?

8 A. Yeah.

9 Q. I mean was it about the way he drove?

10 A. Some of it was about the way he drove. Always  
11 in a rush, in a hurry basically.

12 Q. Had you talked to any supervisor or member of  
13 management about your concerns?

14 A. No.

15 Q. Let's go back to apparently Bob went to a member  
16 of management?

17 A. Yes.

18 Q. Because you and he were having a heated  
19 discussion about him almost clipping you?

20 A. Right.

21 Q. Where did that incident almost take place?

22 A. That took place close to line one. Tester area.  
23 Right around in there.

24 Q. So Bob goes to a member of management. Who does  
25 he go to?

1 to Walt. I came in the office.

2 He said, "Were you threatening Bob?"

3 I said, "I told him if he hit me with that  
4 truck, I was going to take him off that truck and have a  
5 little talk with him," you know.

6 Q. All right. You said that a little quick, and I  
7 want to make sure that I understood what you said. You  
8 were called into Walt's office?

9 A. Yeah.

10 Q. Because Bob had gone to Walt?

11 A. Right.

12 Q. Because you threatened him?

13 A. Right, because I threatened him.

14 Q. When Walt confronted you with that threat, you  
15 explained that the reason you made that threat --

16 A. Right.

17 Q. -- was that Bob had almost hit you with his fork  
18 truck?

19 A. Right, yeah.

20 Q. Did you explain anymore? I understand you  
21 explained what you were going to do to Bob, but did you  
22 explain anymore about the incident?

23 A. No, because Walt was like, he told me basically  
24 get out of the office, just go, because I was being pretty  
25 loud, and he told me just go, and he said he would take

1 care of Bob.

2 Q. Do you know if any disciplinary action was taken  
3 against Bob?

4 A. No, none was taken, no.

5 Q. Did he end up going back to his fork truck that  
6 day?

7 A. Yeah, he did.

8 Q. Do you know if he received any recertification  
9 or refresher course on the fork truck between the time he  
10 almost hit you and the time he hit Jake?

11 A. No, because I was -- no, there wasn't any -- as  
12 far as I know, there was just a little argument, and then  
13 back to the break room where he was at, we were all in  
14 there, and I was going off, I was just going off in there  
15 about it, and basically that was it.

16 Q. Was Walt Ballantine Bob's supervisor?

17 A. Walt was everybody's basic supervisor. He was  
18 the production manager I think at that time.

19 Q. Before that incident a couple of weeks before  
20 Jake, had you had any close calls with Bob operating a  
21 fork truck?

22 A. No, I hadn't. No, I hadn't, not before that,  
23 but I --

24 Q. Are you aware of any instances that Bob had with  
25 other people where he almost struck them?

1 A. Yes.

2 Q. Tell me about those, and this is before Jake's  
3 injury?

4 A. Yes, all before Jake's injury.

5 Q. Tell me about that?

6 A. A lot of it was what I heard of people saying  
7 about Bob, you know, to me, and some I saw in the  
8 department where I was working, how he would come in with  
9 the trucks, and we'd have to jump out of the way, but a  
10 lot of it was every other -- lots of other people were  
11 just talking about it.

12 Q. Do you remember any of the names?

13 A. Well, yeah, I remember some names, but not all  
14 of them.

15 Q. Tell me the ones you remember.

16 A. Jeff Clark.

17 Q. Is he still there?

18 A. Yeah.

19 Q. Okay.

20 A. Rick Rhodes.

21 Q. Rhodes?

22 A. Rick Rhodes, yeah, uh-huh.

23 Q. Okay.

24 A. And one of the Alsepts. I can't remember which  
25 one it was.

1 Q. Alice?

2 A. Alsepts. I can't remember which one it was.

3 There was two of them. I can't remember which one it was.

4 Q. Okay. And Alsept was the last name?

5 A. Yeah.

6 Q. A couple of them work there?

7 A. Yes.

8 Q. And these were folks that had close calls?

9 A. Yes.

10 Q. And that was before Jake's injury?

11 A. Yeah.

12 Q. And that was actually before your close call?

13 A. Right.

14 Q. Do you know if any of those folks either that  
15 you remember their names --

16 A. Right.

17 Q. -- or that you don't remember their names ever  
18 went to any member of management with concerns about Bob's  
19 operation of a fork truck?

20 A. No. I don't know if anyone until -- I know it  
21 was taken to a safety committee. That's all I know. I  
22 don't know if anything other than that.

23 Q. Do you remember who on the safety committee it  
24 was taken to? The safety committee had a member of  
25 management at least and a member of the union?



1 A. Right.

2 Q. Was it taken to the union rep or was it taken to  
3 the committee that contained management?

4 A. I know it was taken to Sandy Goins and Butch  
5 Mayer.

6 Q. And are those members of management or hourly?

7 A. Those are hourly employees. They were safety  
8 committee people.

9 Q. And do you know what they did with the  
10 information? Did you ever get any feedback?

11 A. They were supposed to have taken it to Randy  
12 Stratton, Luther Smith at a safety meeting.

13 Q. And did you ever get any feedback from that?

14 A. No.

15 Q. Sandy Goins and Butch Mayer, are they still  
16 there?

17 A. Yes.

18 Q. At any time where you had discussions with these  
19 co-employees --

20 A. Right.

21 Q. -- about Bob's operation of fork trucks, do you  
22 recall any members of management, an immediate supervisor,  
23 a foreman who was in the break room or around that was a  
24 part of the conversation?

25 A. I can't remember anyone that was a part of the

1 conversation. Basically, no. Luther was talked to a lot  
2 about it, but no.

3 Q. What do you mean Luther was talked to about it?

4 A. Luther was his boss. He was the boss over  
5 salvage.

6 Q. And that's Luther Smith?

7 A. Right.

8 Q. So tell me what you mean? You mean co-employees  
9 in salvage?

10 A. Right.

11 Q. Would go to Luther?

12 A. Everybody basically. A lot of people went to  
13 him, and they went to Hanifen, Jerry Hanifen.

14 Q. And Hanifen was a union rep?

15 A. He was chief steward.

16 Q. Do you know any employees that specifically went  
17 to Luther?

18 A. No, that's what I've heard. I don't know if any  
19 specifically went to him, no.

20 Q. And when they went to Luther, what is your  
21 understanding of what was conveyed to Luther?

22 A. About Bob's driving, you know, close calls,  
23 about hitting people. It was said plenty of times that he  
24 was going to hit somebody.

25 Q. Before you were dismissed from I think it was

1 A. Right.

2 Q. -- did you ever go and just give a supervisor a  
3 general complaint?

4 A. About Bob, no.

5 Q. About Bob.

6 A. No.

7 Q. But your understanding is other people went to  
8 Luther?

9 A. Right.

10 Q. Bob have glasses?

11 A. Yes.

12 Q. How thick?

13 A. I'm not sure how thick they are, but they're --  
14 he didn't see real well.

15 Q. Okay. From your experience driving a fork  
16 truck, had you driven the Toyota 10,000?

17 A. Yeah, I had driven all trucks, yes.

18 Q. Backing straight up --

19 A. Uh-huh.

20 Q. -- on the dock where Jake was injured --

21 A. Right.

22 Q. -- would there be a blind spot behind you?

23 A. Not really. Not with that close a distance,  
24 there wouldn't be a blind spot.

25 Q. So if you pulled out of the garage door --

1 refresher course other than every three years to recertify  
2 and get your license again?

3 A. No.

4 Q. So you're not aware --

5 A. Of anybody having a refresher course, no.

6 Q. To the best of your knowledge, Bob was never  
7 given a refresher course after any of his instances?

8 A. Best of my knowledge, no, he just drove.

9 Q. Does Bob have a disabled or handicapped license  
10 plate?

11 A. Yes.

12 Q. Do you know what that's from?

13 A. No. I think it's from his wrist or something.  
14 I'm not sure.

15 Q. Gets to park close because the walk hurts his  
16 wrist?

17 A. I don't know. I don't know.

18 Q. You had a run-in with Bob?

19 A. Uh-huh.

20 Q. Are you aware of any other employees who had  
21 similar run-ins?

22 A. Yeah, there were, but I can't remember their  
23 names. Rick Rhodes is one of them. He was pretty angry.  
24 He was one that Bob about got, and Jeff jumped out of his  
25 way. Who else had he got? Came close to Rhonda, Rhonda

1 area?

2 A. I remember water everywhere. I'm not sure  
3 exactly how it happened. I just remember Bob hit it,  
4 smashed something in that area.

5 Q. And you actually saw him hit it?

6 A. I saw -- I didn't actually -- I saw him hit it,  
7 but I kept going, but I didn't know what happened till  
8 later. I heard a crash. We always heard crashes when Bob  
9 was around.

10 Q. And this is over in salvage?

11 A. Yes.

12 MR. BLACK: That's all I have.

13 RECROSS-EXAMINATION

14 BY MR. ALLEN:

15 Q. Just a couple of follow-ups. You said Bob's  
16 okay. You didn't hang out with Bob?

17 A. No.

18 Q. You don't have any reason to tell stories on  
19 Bob?

20 A. No. I mean I don't dislike Bob. He's an okay  
21 guy, you know.

22 Q. You don't --

23 A. The only problem I have with Bob was basically  
24 his driving. It irked me a lot, because he just drove  
25 without -- just always in a rush.

1 Q. And Jake generally didn't work with Bob?

2 A. No.

3 Q. So you worked with both Bob and Jake?

4 A. I was working with Bob during this period of  
5 time.

6 Q. Did you get to know the kind of guy Jake is?

7 A. Yeah. Uh-huh.

8 Q. Was he the kind of guy to stick up for somebody?

9 A. Yeah, Jake stuck up for you. Jake stuck up for  
10 you.

11 Q. Whether or not he knows you or not?

12 A. Yeah, doesn't matter. If you're in the right,  
13 Jake would stick up for you.

14 Q. And then I think you said something about you  
15 always heard crash, bang when Bob was around?

16 A. You always heard something. He was knocking  
17 over something constantly in the salvage area, hitting,  
18 dropping cans.

19 Q. If you damage cans, goods, something like that,  
20 would it matter, strike that.

21 You're working in the salvage area?

22 A. Right.

23 Q. So did it matter that he was dropping these cans  
24 or were they going to be scrapped?

25 A. No, we'd pick them up. We'd pick them up and

1 throw them in the scrap and take them out and scrap them.

2 Q. So were some of the cans in salvage still good  
3 cans?

4 A. Yes, they were good cans.

5 Q. You had to test them and put them back on a  
6 pallet?

7 A. We looked at them and stack them on a pallet,  
8 and then they were taken out and banded up and taken back  
9 to the warehouse if they were recertified.

10 Q. Do you know if there was any method that  
11 management would know if Bob by his driving damaged some  
12 cans that could have been put back into circulation once  
13 they were certified?

14 A. No, they wouldn't do that, because we just pick  
15 them up and threw them away.

16 Q. Did the manager in salvage ever come to know  
17 that Bob was damaging cans that actually could have been  
18 salvaged and recertified?

19 A. Well, yeah, Luther, he knew, but it was just  
20 something that we just -- that was never said about. We  
21 kind of threw them out.

22 MR. ALLEN: I have nothing further.

23 MR. BLACK: We're done. We'll read it.

24 (The deposition adjourned at 2:34 o'clock, p.m.)

25